APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,692	02/02/2001	David Michael Kimble	50N3463.01	8893

				EXAMINER	
36738	7590	04/10/2007		KE, PENG	

ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO, CA 92101

ART UNIT	PAPER NUMBER
2174	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
2 MONTHS	04/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

MAILED

APR 1 0 2007

Technology Center 2100

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/775,692
Filing Date: February 02, 2001
Appellant(s): KIMBLE ET AL.

Kimble et al.
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/18/06 appealing from the Office action mailed

11/15/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,219,042	Anderson et al.	4-2001
6,445,398	Gerba et al.	9-2002
6,757,707	Houghton et al.	6-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-22, and 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Anderson et al. (US 6,219,042) in view of Gerba (US 6,445,398).

As per claim 1, Anderson et al. teaches a method of displaying a video content frame

within a WEB browser based content frame in a windowless environment (col.1, lines 56-68, col.

2, lines 1-21), comprising the steps of:

a) generating a section in the browser based content frame (col. 4, lines 53-68); and

b) overlapping the video content frame in the section of the browser based content frame

(col. 5, lines 15-24).

However, Anderson fails to teach generating a transparent section.

Gerba teaches generating a transparent section. (column 27, lines 5-20)

It would have been obvious to an artisan at the time of the invention to include Gerba's

teaching with method Anderson in order to allow moving video to be viewed when it is

overlapped by the web browser.

As per claim 2, Anderson and Gerba teaches the method of displaying a video content

frame within a WEB browser based content frame in a windowless environment of claim 1,

Anderson further teaches wherein the displayed size of the video content frame is smaller than

the displayed size of the browser based content frame (col. 5, lines 15-24, fig 2, items 12 and

88).

As per claim 3, Anderson and Gerba teach the method of claim 2. Anderson further teaches the method of displaying a video content frame within a WEB browser based content frame in a windowless environment, wherein video content is related to the browser based content (col. 5, lines 32-56).

As per claim 4, Anderson teaches method of handling a video media event in a windowless Web browser system comprising the steps of:

a)   detecting a video media event (col. 5 ,lines 15-24);

b)   generating a section in the browser frame (col. 5 ,lines 15-24); and

c)   overlapping a video content frame in the section of the browser frame where the video content frame is generated from the video media event (col. 5 ,lines 15-24; fig 2, items 12 and 88).

However, Anderson fails to teach generating a transparent section.

Gerba teaches generating a transparent section. (column 27, lines 5-20)

It would have been obvious to an artisan at the time of the invention to include Gerba's teaching with method Anderson in order to allow moving video to be viewed when it is overlapped by the web browser.

As per claim 5, Anderson and Gerba teach the method of handling a video media event in a windowless Web browser system of claim 4. Anderson further teaches wherein step b) includes:

a) decoding the video frame size from the video media event (col. 5, lines 32-56); and

b) decoding the source of the video signal to be displayed in the video content frame from the video media event (col. 5, lines 32-56; It is inherent that, in order for the television programming content to be displayed, it needs to be decoded first.).

As per claim 6, Anderson and Gerba teach the method of handling a video media event in a windowless Web browser system of claim 5. Anderson further teaches wherein step b) further includes decoding the video frame location within the browser frame from the video media event (col. 5, lines. 15-24, fig 2, items 12 and 88)

As per claim 7, it is rejected with the same rationale as claim 4. (see rejection above)

As per claim 8, which is dependent on claim 7, it is of the same scope as claim 5. (see rejection above)

As per claim 9, which is dependent on claim 8, it is of the same scope as claim 6, (see rejection above)

As per claim 10, Anderson and Gerba teach the method of handling a video media event in a windowless Web browser system in a television set top box of claim 9. Anderson further teaches wherein step b) includes directing a tuner to tune to the source of the video signal to be displayed in the video content frame (col. 5, lines 15-24; It is inherent that a tuner needs to be tuned to the source of the television programming in order to display its content).

As per claim 11, it is rejected with the same rationale as claim 1. (see rejection above)

As per claim 12, which is dependent on claim 11, it is of the same scope as claim 2. (see rejection above)

As per claim 13, which is dependent on claim 12, it is of the same scope as claim 3. (see rejection above)

As per claim 14, it is rejected with the same rationale as claim 4. (see rejection above)

As per claim 15, which is dependent on claim 14, it is of the same scope as claim 5. (see rejection above)

As per claim 16, which is dependent on claim 15, it is of the same scope as claim 6. (see rejection above)

As per claim 17, it is rejected with the same rationale as claim 4. (see rejection above)

As per claim 18, which is dependent on claim 17, it is of the same scope as claim 5. (see rejection above)

As per claim 19, which is dependent on claim 18, it is of the same scope as claim 6. (see rejection above)

As per claim 20, which is dependent on claim 19, it is of the same scope as claim 10. (see rejection above)

As per claim 21, it is rejected with the same rationale as claim 1. (see rejection above)

As per claim 22, Anderson and Gerba teach the apparatus for displaying a video content frame within a WEB browser based content frame in a windowless environment of claim 21. Anderson further teacheswherein the displayed size of the video content frame is smaller than the displayed size of the browser based content frame (col. 5, lines. 15-24, fig 2, items 12 and 88).

As per claim 24, it is rejected with the same rationale as claim 1. (see rejection above)

As per claim 25, which is dependent on claim 24, it is of the same scope as 5. (see rejection above)

As per claim 26, which is dependent on claim 25, it is of the same scope as claim 6. (see rejection above)

As per claim 27, it is rejected with the same rationale as claim 1. (see rejection above)

As per claim 28, which is dependent on claim 27, it is of the same scope as claim 5. (see rejection above)

As per claim 29, which is dependent on claim 28, it is of the same scope as claim 6. (see rejection above)

As per claim 30, which is dependent on claim 28, it is of the same scope as claim 10. (see rejection above)

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al.

(US 6,219,042) in view of Gerba (US 6,445,398) further in view of Houghton et al. (US

6,757,707).

As per claim 23, Anderson and Gerba teach the apparatus for displaying a video content

frame within a WEB browser based content frame in a windowless environment of claim 22.

However, they fail to teach wherein video content is related to the browser-based content.

Houghton et al. teaches video content is related to the browser-based content. (col. 3,

lines 30-40)

It would have been obvious to an artisan at the time of the invention to include

Houghton's teaching with the apparatus of Anderson and Gerba in order to provide user with the

capability of "Featured Tuning".

(10) Response to Argument

First Ground of Rejection

Appellant's arguments focused on the point that there is no motivation to combine

Anderson and Gerba because

1) It is impossible to incorporate Gerba's interface into Anderson's interface.

2) Anderson and Gerba are non-analogous art.

Examiner disagrees

1) In response to appellant's argument that it is impossible to incorporate Gerba's

interface into Anderson's interface, the test for obviousness is not whether the features of a

secondary reference may be bodily incorporated into the structure of the primary reference; nor

is it that the claimed invention must be expressly suggested in any one or all of the references.

Rather, the test is what the combined teachings of the references would have suggested to those

of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Here, both Anderson and Gerba are faced with a similar problem and that is the video

displayed on the foreground overshadows the text displayed on the background. (see Anderson,

figure 3, items 98 and 12, col. 6, lines 45-56; see Gerba, col. 27, lines 5-20) Gerba's solution to

the problem is depicting the video with transparent colors so the user can see the contents from

both the foreground and the background. (see Gerba, col. 27, lines 5-20) It is a obvious solution

for Anderson because by making the video color transparent, users can see both the web content

and the TV video at the same time. (see Anderson, figure 3, items 98 and 12, col. 6, lines 45-56)

Therefore it would be obvious to combine Gerba's teaching with method of Anderson. (see

Gerba, col. 27, lines 5-20)

2) In response to appellant's argument that Anderson and Gerba are nonanalogous, it has

been held that a prior art reference must either be in the field of appellant's endeavor or, if not,

then be reasonably pertinent to the particular problem with which the applicant was concerned,

in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977

F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

In this case, Anderson and Gerba are in the same field of endeavor as the appellant. All

of them are constructing navigation system for television set. (see Anderson, column 1, lines 55-

70; see Gerba, column 2, lines 50-65; see Appellant's specification, page 3) Furthermore, all of

them are confronted with the same problem and that is the desired content on the background is

blocked by the TV video. (see Anderson, figure 3, items 98 and 12, col. 6, lines 45-56; see

Gerba, col. 27, lines 5-20; see Appellant's drawing, figure 6B) Therefore, Anderson and Gerba

are analogous to appellant's invention.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related

Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Peng Ke   3/23/07

Conferees:

Lynne Browne

Lynne H. Browne
Appeal Specialist, TQAS
Technology Center 2100

Kristine Kincaid

KRISTINE KINCAID
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100